

## REMARKS

### Status of the Claims

Pursuant to the telephone call between Applicant's counsel and the Examiner on December 12, 2008, Applicant affirms the election of Claims 1-5, 10-16, 25-33, and 36-39, which pertain to the invention of Figs. 1-3. As such, Claims 6, 7, 17-24, 34-35, and 40-47—which pertain to a non-elected invention—are withdrawn from further consideration of the Examiner. Applicant reserves the right upon allowance of a generic claim to be entitled to consideration of claims to additional species that are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141.

In the Office Action mailed January 18, 2007, Claims 1, 2, 4, 10, 13, 15, 25, 28, 32, 36, and 38 were rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 5,685,996, issued to Ricci, ("*Ricci*"); Claims 11, 26, and 29 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Ricci* as applied to Claims 10 and 25, and further in view of U.S. Patent No. 3,194,611, issued to Mahony, ("*Mahony*"); Claims 12, 27, and 30 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Ricci* and *Mahony* as applied to Claims 11 and 26, and further in view of U.S. Patent No. 5,524,813, issued to Pease, ("*Pease*"); Claims 4, 5, 15, and 16 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention; and, Claims 3, 5, 14, 16, 31, 33, 37, and 39 were objected to as being dependent upon a rejected base claim, and were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant thanks the Examiner for the indication of allowable subject matter.

By this reply, Claims 1, 2, 4-7, and 10-13 have been amended, Claims 3 and 14-47 have been canceled, and new Claims 48-50 have been added. As such, Claims 1, 2, 4-7, 10-13, and 48-50 are pending in this application—Claims 6 and 7 having been withdrawn. Amendments to the claims are fully supported by the specification—e.g., page 4, line 24; page 14, line 20 to page 15, line 3; page 19, line 24 to page 20, line 3—and no new matter has been added.

### Claim Amendments

The claims have been amended to more particularly point out and distinctly claim the subject matter that Applicant regards as the invention; and, amended Claim 1 and new Claims 48 and 49 have been written in accordance with the Examiner's indication of allowable subject

matter, wherein amended Claim 1 is originally filed dependent Claim 3 rewritten in independent form, and new Claims 48 and 49 are originally filed dependent Claims 5 and 14 rewritten in independent form, respectively. In addition, newly added Claim 50 is directed to originally filed Claim 1 and further including a motor driven device by which a relative movement between the workpiece and the cutting or welding torch in the axial direction of the through opening can be brought about.

Applicant therefore submits that independent Claims 1, 48, and 49—as well as all claims ultimately depending thereon—are in condition for allowance and respectfully requests that the rejection of all pending claims be removed and the claims be allowed to issue.

#### New Claim

Newly added Claim 50 is directed to an apparatus for a cutting or welding torch, which is controllable in such a way that the cutting or welding torch follows a predetermined desired contour. The apparatus comprises a portal including a through opening, into which a workpiece can be guided in an axial direction; a rotary part, which is rotatable about the axis of the through opening in a motor-driven manner; a holding arm, which at its free end carries the cutting or welding torch and with its other end is fixed in such a way to the rotary part and configured in such a way that the cutting or welding torch can be adjusted radially in relation to the axis of the through opening of the portal and brought into different angular positions in relation to the surface of the workpiece; and, a motor driven device, by which a relative movement between the workpiece and the cutting or welding torch in the axial direction of the through opening can be brought about.

The cited prior art—alone or in combination—fails to disclose at least a motor driven device by which a relative movement between the workpiece and the cutting or welding torch in the axial direction of the through opening can be brought about. As such, because any combination of the cited prior art fails to disclose, teach, or suggest each and every element of Claim 50, Applicant respectfully submits that Claim 50 is patentable and requests that the claim be allowed to issue.

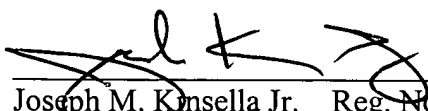
### **CONCLUSION**

In view of the above amendments and remarks, Applicant requests that all rejections be removed and all pending claims—including the previously withdrawn claims that ultimately depend on now allowable independent Claim 1—be passed to issue.

In any additional fees are required with this reply, Applicant authorizes the Commissioner to deduct such fees from Deposit Account No. 50-0545.

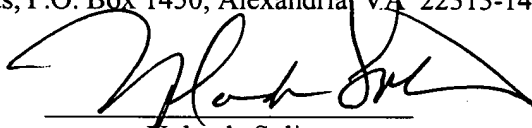
Respectfully submitted,

Dated: April 18, 2008

  
\_\_\_\_\_  
Joseph M. Konsella Jr. Reg. No. 45,743  
One of Applicant's Attorneys

### **CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 18, 2008.

  
\_\_\_\_\_  
Yolanda Solis